



Kevin Murray
<kevin.murray@mabeymurray.com>

02/28/2006 04:33 PM

To Mark.Elmer@usdoj.gov

cc Peggy Livingston/RC/R8/USEPA/US@EPA, Maureen O'Reilly/ENF/R8/USEPA/US@EPA

bcc

Subject RE: Richardson Flat CD

Sure, just give me my way and we are done.

-----Original Message-----

From: Mark.Elmer@usdoj.gov [mailto:Mark.Elmer@usdoj.gov]
Sent: Tuesday, February 28, 2006 4:26 PM
To: Kevin Murray
Cc: livingston.peggy@epamail.epa.gov; oreilly.maureen@epa.gov
Subject: RE: Richardson Flat CD

I hope they're all this easy to deal with tomorrow!

-----Original Message-----

From: kevin.murray@mabeymurray.com [mailto:kevin.murray@mabeymurray.com]
Sent: Tuesday, February 28, 2006 4:23 PM
To: Elmer, Mark (ENRD)
Cc: livingston.peggy@epamail.epa.gov; oreilly.maureen@epa.gov
Subject: RE: Richardson Flat CD

I could not have made a better list myself. Except that the NRD reservation should remain in there . . . We struck it out of habit.

-----Original Message-----

From: Mark.Elmer@usdoj.gov [mailto:Mark.Elmer@usdoj.gov]
Sent: Tuesday, February 28, 2006 3:44 PM
To: Kevin Murray
Cc: livingston.peggy@epamail.epa.gov; oreilly.maureen@epa.gov; Mark.Elmer@usdoj.gov
Subject: FW: Richardson Flat CD

Kevin,

Thanks for having a redline version sent over. It makes reviewing much easier. While I have only had a chance to glance it over, I thought it made sense to identify a few areas for discussion tomorrow. There are also smaller issues, which I won't mention here. I'm open to suggestions, but I think the most efficient way to proceed would be for me, following our meeting tomorrow, to send you a new redlined draft with our changes. This will take a few days at least, as the draft will need to be reviewed by EPA staff before it can be sent out. In any event, in the hopes that this will make our time tomorrow more productive, here are a few areas for discussion:

1) the definitions section, particularly the idea of "future" and "interim response costs", which are different than your proposed

definition of "future oversight costs";

2) the concept of a pre-approved "RD/RA Work Plan" rather than a SOW to be developed within some period after the entry of the decree, followed by a RD Work Plan, and a RA Work Plan;

3) the scope of the permits provision in paragraph 8.a;

4) allowing in paragraph 13.c the continued use of Richardson Flat as a repository for mine waste from other properties, which may be inconsistent with other agreements on this issue;

*limit to 10
waste from
Silver Creek watershed
and mine waste
cert. compliance*

5) the omission of an obligation to implement work plan as may be modified by EPA, subject only to right to invoke dispute resolution (see model decree at para. 38);

6) capping future costs at some number as contemplated in paragraph 49;

7) the amount of stipulated penalties and the idea that notice is required before stipulated penalties can accrue, paragraphs 66 and 69;

8) the scope of the Covenant Not To Sue, paragraph 76;

9) the omission of NRD claims in the Reservation Of Rights, paragraph 81;

10) the scope of the definition of "matters addressed" in paragraph 89

I look forward to seeing you tomorrow.

Mark

-----Original Message-----

From: patrick.malone@mabeymurray.com

[mailto:patrick.malone@mabeymurray.com]

Sent: Monday, February 27, 2006 4:41 PM

To: Elmer, Mark (ENRD); kevin.murray@mabeymurray.com

Cc: juriona@mabeymurray.com

Subject: RE: Richardson Flat CD

Here is a redline against the 2001 model, which is the last version we have on the system.

I will ask Julie tomorrow to add any recent changes to the model (I believe there was a change to financial assurance last year).

Regards,

Patrick Malone

-----Original Message-----

From: Kevin Murray

Sent: Monday, February 27, 2006 2:45 PM
To: Mark.Elmer@usdoj.gov
Cc: Patrick Malone
Subject: RE: Richardson Flat CD

I thought that is what I sent you. Patrick will you oblige.

-----Original Message-----

From: Mark.Elmer@usdoj.gov [mailto:Mark.Elmer@usdoj.gov]
Sent: Monday, February 27, 2006 2:35 PM
To: Kevin Murray
Subject: Richardson Flat CD

Kevin,

Do you have (or can you easily create) a redline version of your proposed edits to RD/RA decree that shows differences between your proposals and the model RD/RA decree? It would make my review a lot easier and would minimize the potential for initially missing something only to have it surface as an issue later. Thanks, I look forward to meeting with you Wednesday.

Mark